

contained floating yellow flakes. When presented with this allegation, Defendants claimed the flakes were naturally occurring minerals.

3. But multiple independent laboratory tests—conducted by both Apple and Vita Water—confirmed that biological material was present in the bottled water Defendants provided, including live protozoa. To make matters worse, when confronted with the independent laboratory results showing the bottled water was contaminated, Defendants refused to do anything about it.

4. As a direct result of Defendants’ errors, omissions, negligence, breaches, and violations of Texas statutory law, Vita Water lost its largest customer and has effectively gone out of business, losing millions of dollars in the process. Vita Water has filed this lawsuit to hold Defendants accountable.

II. PARTIES

5. Plaintiff Salvare La Vita Water, LLC (Vita Water, or Plaintiff) is a California limited liability company that operates its business in San Ramon, California.

6. Defendant Crazy Bottling Company, LLC is a Texas limited liability company, with its principal place of business located at 209 Northwest 6th Street, Mineral Wells, Texas 76067. Crazy Bottling may be served with process through service on its registered agent for service of process, Carol Elder, at 209 Northwest 6th Street, Mineral Wells, Texas 76067, or wherever she may be found.

7. Upon information and belief, defendant Famous Mineral Water Company, LP is a Texas limited partnership with its principal place of business located at 209 Northwest 6th Street, Mineral Wells, Texas 76067. Famous Mineral Water Company, LP may be served with process through service on its general partner, Famous Water Holdings, LLC, at 209 Northwest 6th Street,

Mineral Wells, Texas 76067.

8. Defendant Famous Water Holdings, LLC is a Texas limited liability company, with its principal place of business located at 209 Northwest 6th Street, Mineral Wells, Texas 76067. Famous Water Holdings, LLC may be served with process through service on its registered agent for service of process, Carol Elder, at 209 Northwest 6th Street, Mineral Wells, Texas 76067, or wherever she may be found.

III. JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000. Further, and to the extent necessary, this Court has supplemental jurisdiction over Vita Water's claims arising under state law pursuant to 28 U.S.C. § 1367(a) because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

10. This Court has jurisdiction over the defendants in this lawsuit because they are residents of Texas and/or conduct business in the State of Texas. Crazy Bottling and Famous Water Holdings, LLC are both limited liability companies that are organized under Texas law and have their headquarters in the State of Texas. Upon information and belief, Famous Mineral Water Company, LP is a limited partnership organized under Texas law and has its headquarters in the State of Texas.

11. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(1) because each defendant resides in this district and all defendants are residents of the State of Texas. Further, venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

IV. BACKGROUND

12. Vita Water is based in San Ramon, California, and sells bottled water products to stores and companies. One of the things that makes Vita Water unique in the industry is that it takes a majority of its proceeds and helps provide clean drinking water to impoverished areas all over the world. This fact attracted customers like Apple to engage in business with Vita Water. Apple (which is based in Cupertino, California) supported Vita Water's mission in providing clean drinking water all across the globe through its charitable work.

13. After several years of doing business with Apple, Apple asked Vita Water convert its product packaging (plastic bottle containers with plastic caps) to more environmentally conscious materials (glass bottle containers with aluminum caps). Changing product packaging required significant costs and structural changes to Vita Water's supply chain. Vita Water requested, and Apple agreed to, a substantial increase in the amount of product Vita Water would provide to Apple: more than \$1 million in annual retail sales.

14. But when Vita Water began looking for a bottler to satisfy Apple's packaging request, it became apparent there was no bottler in California with a natural source of water that would accommodate the volume of water that Vita Water sought. Vita Water's nationwide search brought it to Defendants, located in Mineral Wells, Texas.

15. Defendants did have the capacity to satisfy the volume Vita Water required and could do so in glass bottles with aluminum caps. Negotiations with Defendants occurred in late 2018 and early 2019, regarding labeling, packaging, shipping, long-term supply agreements, and other issues. Importantly, Famous Water provided test results for its water during this process, which purported to demonstrate the water was fit for consumption.

16. A written contract reflecting the agreement between Vita Water and Defendants

was not executed by the time delivery of the new products was due to Apple. For that initial shipment in February 2019, the parties agreed to have three truckloads totaling 84,000 glass bottles (filled with water) delivered to a warehouse in Hayward, California, for a fixed price based on a purchase order.

17. The shipment arrived on time and appeared on cursory inspection to comply with the terms of the parties' agreement. The bottled water was then distributed to Apple.

18. After Apple received its first shipment, however, it contacted Vita Water. Brown-orange particles were floating in the glass water bottles that Apple received.

19. Vita Water immediately contacted Defendants. Carol Elder, one of Defendants' principals, told Vita Water that those particles were "minerals that have dropped out of the water," that it was typical of mineral water, and the water was safe to drink. Vita Water passed on to Apple what Defendants said.

20. Apple was not so sure. In order to ensure the health and safety of its employees, Apple sent several bottles of Vita Water supplied by Defendants to an independent laboratory for testing. Aemtak, Inc. located in San Jose, California, conducted a test of various samples of the Vita Water bottles sent in by Apple.

21. Aemtak's results were shocking. The brown-orange clumps were not "minerals," as Ms. Elder claimed—they were biofilms. According to Aemtak, Inc. inside these biofilms were hyphal fragments, yeast-like cells, and live protozoa.

22. Apple immediately canceled its contract with Vita Water. In an attempt to salvage the relationship, Vita Water agreed to recall all the glass bottles of Vita Water obtained from Defendants. After notifying Defendants of what had happened, both Defendants refused to assist in a recall. In fact, when confronted with the lab results, Defendants brazenly rejected them before

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.